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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/215,095	12/18/1998	NATHANIEL T. BECKER	GC507-2	7801

5100 7590 07/22/2003

GENENCOR INTERNATIONAL, INC.  
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EXAMINER

BORIN, MICHAEL L

ART UNIT

PAPER NUMBER

1631

DATE MAILED: 07/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/215,095

Applicant(s)

BECKER ET AL.

Examiner

Michael Borin

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): Rejection of claim 107 under 35 U.S.C. 112, second paragraph.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.


The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 66-69, 72-76 and 78-107.Claim(s) withdrawn from consideration: 70, 71, 77.

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
Michael Borin  
Primary Examiner  
Art Unit: 1631

Continuation of 5. does NOT place the application in condition for allowance because: Applicant's arguments in regard to rejection of claims 66-69, 72-76, 78-107 under 35 U.S.C. 103(a) as being unpatentable over by Arnold et al. (US Patent 5,324,649) are considered but are not deemed persuasive. Examiner maintains that the referenced granule is similar to the claimed except for the presence of polysaccharides. In regard to the latter excipient, applicant argues that Arnold presents list of 10 stabilizers that do not include polysaccharides. However, the list in the reference is not limited to 10 particular stabilizers; rather, as evident by the presence of "etc." at the end of the list, the reference merely provides non-exhaustive list of known stabilizers. Thus, the list, rather than showing preferred embodiment, lists exemplary stabilizers, and any other functional equivalent may be used in their place. US 5,254,287 (col. 4, line 22), or US 5,260,074 (col. 1, lines 51-54) were cited to show that starch is as common enzyme stabilizer as any other listed in Arnold. Note, for example, that '287 patent lists starch as functional equivalent to triethanolamine cited in Arnold. Applicant do not provide arguments that starch should not be considered as an equivalent to stabilizers described in Arnold. Therefore, it would be obvious that any of known functionally equivalent enzyme stabilizers could have been used in granules of Arnold with equal expectation of success.

Applicant argues that if additional ingredients were selected from the list of column 7, the granule would not have a matrix of protein, sugar and polysaccharide. Examiner disagrees. As described above (and in the original rejection), the referenced granule is similar to the claimed except for the presence of polysaccharides. Selection of the latter, however, is obvious as the reference suggests using enzyme protective agents, and one of enzyme protective agents commonly used in the art is starch (i.e., a polysaccharide)..